

the test population under specified conditions.

(b) *Outdoor use* means any pesticide application that occurs outside enclosed manmade structures or the consequences of which extend beyond enclosed manmade structures, including, but not limited to, pulp and paper mill water treatments and industrial cooling water treatments.

§ 152.164 Classification procedures.

(a) *Grouping of products for classification purposes.* In its discretion, the Agency may identify a group of products having common characteristics or uses and may classify for restricted use same or all of the products or uses included in that group. Such a group may be comprised of, but is not limited to, products that:

- (1) Contain the same active ingredients.
- (2) Contain the same active ingredients in a particular concentration range, formulation type, or combination of concentration range and formulation type.
- (3) Have uses in common.
- (4) Have other characteristics, such as toxicity, flammability, or physical properties, in common.

(b) *Classification reviews.* The Agency may conduct classification reviews and classify products at any time, if it determines that a restriction on the use of a pesticide product is necessary to avoid unreasonable adverse effects on the environment. However, classification reviews normally will be conducted and products classified only in the following circumstances:

(1) As part of the review of an application for new registration of a product containing an active ingredient not contained in any currently registered product.

(2) As part of the review of an application for a new use of a product, if existing uses of that product previously have been classified for restricted use. Review of a restricted use product at this time is for the purpose of determining whether the new use should also be classified for restricted use. Normally the Agency will not conduct initial classification reviews for existing uses of individual products in con-

junction with an application for amended registration.

(3) As part of the process of developing or amending a registration standard for a pesticide. The Agency normally will conduct classification reviews of all uses of a currently registered pesticide at this time.

(4) As part of any special review of a pesticide, in accordance with the procedures of 40 CFR part 154.

(c) *Classification procedures.* (1) If the Agency determines that a product or one or more of its uses should be classified for restricted use, the Agency initially may classify the product by regulation. In this case, within 60 days after the effective date of a final rule, each registrant of a product subject to the rule must submit to the Agency one of the following, as directed in the final rule:

(i) A copy of the amended label and any supplemental labeling to be used as an interim compliance measure.

(ii) A statement, which the Agency considers a report under the Act, that the registrant will comply with the labeling requirements prescribed by the Agency within the timeframes prescribed by the regulation.

(iii) An application for amended registration to delete the uses which have been restricted, or to “split” the registration into two registrations, one including only restricted or all uses, and the other including only uses that have not been classified.

(2) Alternatively, EPA may notify the applicant or registrant of the classification decision and require that he submit the information required by paragraph (c)(1) of this section. The Agency may deny registration or initiate cancellation proceedings if the registrant fails to comply within the timeframes established by the Agency in its notification.

§ 152.166 Labeling of restricted use products.

(a) *Products intended for end use.* A product whose labeling bears directions for end use and that has been classified for restricted use must be labeled in accordance with the requirements of § 156.10 of this chapter or other Agency instructions. The Agency will permit

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the use of stickers or supplemental labeling as an interim alternative to the use of an approved amended label, in accordance with § 152.167.

(b) *Products intended only for formulation.* A product whose labeling does not bear directions for end use (a product that is intended and labeled solely for further formulation into other pesticide products) is not subject to the labeling requirements of this subpart.

§ 152.167 Distribution and sale of restricted use products.

Unless modified by the Agency, the compliance dates in this section shall apply to restricted use products.

(a) *Sale by registrant or producer.* (1) No product with a use classified for restricted use may be distributed or sold by the registrant or producer after the 120th day after the effective date of such classification unless the product:

(i) Bears an approved amended label which contains the terms of restricted use imposed by the Agency and otherwise complies with part 156 of this chapter;

(ii) Bears a sticker containing the product name, EPA registration number, and any terms of restricted use imposed by the Agency; or

(iii) Is accompanied by supplemental labeling bearing the information listed in paragraph (a)(1)(ii) of this section.

(2) If the registrant chooses to delete the restricted uses from his product label, that product may not be distributed or sold after the 180th day after the effective date of classification unless the product bears amended labeling with the restricted uses deleted.

(3) Notwithstanding paragraphs (a)(1) and (2) of this section, after the 270th day after the effective date of classification, no registrant or producer may distribute or sell a product that does not bear the approved amended label. After that date, stickers and supplemental labeling described in paragraph (a)(1)(ii) and (iii) are no longer acceptable.

(b) *Sale by retailer.* No product with a use classified for restricted use by a regulation may be distributed or sold by a retailer or other person after the 270th day after the effective date of the final rule unless the product bears a

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label or labeling which complies with paragraph (a)(1) of this section.

§ 152.168 Advertising of restricted use products.

(a) Any product classified for restricted use shall not be advertised unless the advertisement contains a statement of its restricted use classification.

(b) The requirement in paragraph (a) of this section applies to all advertisements of the product, including, but not limited, to:

(1) Brochures, pamphlets, circulars and similar material offered to purchasers at the point of sale or by direct mail.

(2) Newspapers, magazines, newsletters and other material in circulation or available to the public.

(3) Broadcast media such as radio and television.

(4) Telephone advertising.

(5) Billboards and posters.

(c) The requirement may be satisfied for printed material by inclusion of the statement “Restricted Use Pesticide,” or the terms of restriction, prominently in the advertisement. The requirement may be satisfied with respect to broadcast or telephone advertising by inclusion in the broadcast of the spoken words “Restricted use pesticide,” or a statement of the terms of restriction.

(d) The requirements of this section shall be effective:

(1) After 270 days after the effective date of restriction of a product that is currently registered, unless the Agency specifies a shorter time period;

(2) Upon the effective date of registration of a product not currently registered.

§ 152.170 Criteria for restriction to use by certified applicators.

(a) *General criteria.* An end-use product will be restricted to use by certified applicators (or persons under their direct supervision) if the Agency determines that:

(1) Its toxicity exceeds one or more of the specific hazard criteria in paragraph (b) or (c) of this section, or evidence described in paragraph (d) of this section substantiates that the product